

REMARKS

Claims 17, 19 to 25, and 27 to 36 are pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 17, 19, 20, 25, 27, 29, 30, 32, 33, 35, and 36 were rejected under 35 USC § 102(a) as anticipated by Achhammer et al., U.S. Patent No. 6,315,074.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(a), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 17 relates to a “system for generating a triggering signal for a restraining unit in a vehicle,” including the feature of “a circuit generating the triggering signal for the restraining unit,” ... in which the circuit includes “*at least one hold element determining a period of time during which no triggering signal may be generated when a critical rotational motion of the vehicle has been detected.*”

Nothing in the Achhammer reference identically discloses (or even suggests) a circuit that includes *at least one hold element determining a period of time during which no triggering signal may be generated* when a critical rotational motion of the vehicle has been detected, as provided for in the context of claim 17. The Achhammer reference merely refers

to a triggering circuit that blocks activation signals for an unspecified amount of time. Specifically, the Achhammer reference only indicates that the triggering circuit blocks activation signals when a vehicle remains in one position for an amount of time exceeding a preset threshold value. (Achhammer, col. 3, lines 18 to 26). However, there is no indication at all that the triggering circuit of the Achhammer reference makes a *determination of a period of time* during which no triggering signal may be generated. Instead, the triggering circuit of Achhammer makes no such determination, but merely blocks activation signals when a vehicle reaches “a stable, tilted position.” (Achhammer, col. 4, line 20). Thus, the Achhammer reference does not identically disclose (nor even suggest) a circuit that includes *at least one hold element determining a period of time during which no triggering signal may be generated*, as provided for in the context of claim 17.

Further, nothing in the Achhammer reference identically discloses (or even suggests) a circuit that includes at least one hold element determining a period of time during which no triggering signal may be generated *when a critical rotational motion of the vehicle has been detected*, as provided for in the context of claim 17. As explained above, the Achhammer reference merely indicates that a triggering circuit blocks activation signals when the vehicle remains in one position for an amount of time exceeding a preset threshold value, and that the triggering circuit blocks activation signals only when a “motor vehicle has been in a tilted position over a lengthy period of time” (Achhammer, col. 3, lines 23 to 24). Only after such “a stable, tilted vehicle state” has been reached, does the triggering circuit blocks activation signals. (Achhammer, col. 5, lines 28 to 44). Thus, the Achhammer reference does not disclose the blocking of activation signals when a critical rotational motion has been detected, but only indicates blocking activation signals after a vehicle comes to rest. Therefore, the Achhammer reference does not identically disclose (or even suggest) a circuit that includes *at least one hold element determining a period of time during which no triggering signal may be generated when a critical rotational motion of the vehicle has been detected*, as provided for in the context of claim 17.

Accordingly, it is respectfully submitted that claim 17 is allowable for at least the reasons provided above. Claims 19 and 20 depend from claim 17 and are therefore allowable for at least the same reasons as claim 17.

Claim 25, includes features similar to those of claim 17. Claim 25 relates to a “method for triggering a restraining unit in a vehicle,” including the feature of “generating

the triggering signal for the restraining unit,” ... in which “*in the event of an impact, the restraining unit is blocked from being triggered for a selected period of time t_{stop} when a critical rotational motion exists.*”

As explained above as to claim 17, the Achhammer reference does not identically disclose (or even suggest) that *the restraining unit is blocked from being triggered for a selected period of time t_{stop} when a critical rotational motion exists*, as provided for in the context of claim 25. Specifically, the triggering circuit of the Achhammer reference does not *select a period of time t_{stop}* during which to block signals to the restraining unit. Further, the triggering circuit of the Achhammer reference does not disclose blocking the restraining unit from being triggered *when a critical rotational motion exists*, but only indicates blocking the restraining unit after a vehicle comes to rest. Thus, the Achhammer reference does not identically disclose (nor even suggest) that *the restraining unit is blocked from being triggered for a selected period of time t_{stop} when a critical rotational motion exists*, as provided for in the context of claim 25.

Accordingly, it is respectfully submitted that claim 25 is allowable for at least the reasons provided above. Claims 27, 29, 30, 32, 33, 35, and 36 depend from claim 25 and are therefore allowable for at least the same reasons as claim 25.

Withdrawal of the rejections of these claims is therefore respectfully requested.

Claims 21 to 24, 28, 31, and 34 were rejected under 35 U.S.C. § 103(a) as unpatentable over Achhammer et al., U.S. Patent No. 6,315,074, in view of Watson et al., U.S. Patent App. Pub. No. 2002/0152012.

In rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s)

must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 21 to 24 depend from claim 17, and claims 28, 31, and 34 depend from claim 25. As explained above, the Achhammer reference does not disclose or even suggest all of the features of claims 17 and 25. Since the Watson reference does not cure the critical deficiencies of the Achhammer reference, the proposed combination of the Achhammer reference and the Watson reference cannot disclose or suggest all of the features of claims 17 and 25, or their respective dependent claims 21 to 24, 28, 31, and 34. Therefore, it is respectfully submitted that claims 21 to 24, 28, 31, and 34 are allowable for essentially the same reasons provided above as to their base claims.

Withdrawal of the obviousness objections of these claims is therefore respectfully requested.

In sum, it is respectfully submitted that claims 17, 19 to 25, and 27 to 36 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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